

REMARKS

In this Response, claims 6 and 10 have been amended and claim 23 has been cancelled, without prejudice. No new matter has been added.

Claims 1-10 and 34 are presently pending.

35 U.S.C. §112 Rejections

In the Office Action claims 6 and 10 are rejected for providing insufficient antecedent basis.

The Applicants have amended claim 6 and 10 to provide sufficient antecedent basis and therefore request withdrawal of this rejection.

35 U.S.C. §102 Rejections

In the Office Action claims 1-10, 23, and 34 are rejected as being anticipated by Tso et al. (U.S. Patent No. 6,247,050) (hereinafter "Tso"). Claim 23 has been cancelled and its rejection stands moot. The Applicants herein traverse the rejections of claim 1-10 and 34.

Claim 1 recites instructions that cause a processor to:

generate one or more messages including logic for testing digital content capabilities of a receiving computer system; and logic for displaying one of a plurality of versions of a digital content message selected based on the results of testing digital content capabilities...

As can be seen, the generated one or more messages includes both testing logic and displaying logic. In an embodiment, the testing logic may be sent as scripts, e.g., JavaScript, which are loaded and executed on the recipient computer system in order to test the recipient computer system's capabilities. See, for example, paragraphs [0018, 0025 (middle), and 0035].

Tso, on the other hand, teaches a remote scaling server **34** to selectively transcode content based on a predetermined selection criterion for delivery to a network client **12**. Tso, column 4, line 15 *et seq.* The predetermined selection criterion is characteristics of the content being delivered, the capabilities of the client, characteristics of the link between the client and the server, or user preferences. There

is no teaching, nor would it be proper to assume, that the predetermined selection criteria related to the capabilities of the client are determined through testing logic that is sent to the client.

While Tso does teach transmission of scripts to the client, the transmitted scripts do not test any client capabilities. Rather, they simply provide user functionalities, e.g., to allow for a non-enabled client to communicate transcoding preferences to the server. See, for example, column 6, line 18 *et seq.* Therefore, there is nothing in Tso to teach, suggest, or imply that a processor generates one or more messages including logic for testing capabilities of a receiving computer system.

For at least this reason, claim 1 is patentably distinct from Tso. Furthermore, claims 2-5 and 34 depend from, or include limitations similar to, claim 1 and are patentably distinct from Tso for at least the reasons given above. Therefore, the Applicants respectfully request that the Examiner withdraw this rejection of these claims.

Claim 6 recites a method in a computing system for presenting an adaptive message, comprising:

receiving a message in the computer system; and
based on the contents of the received message: testing two or more digital content capabilities of the computer system; selecting one of a plurality of different digital content elements based upon the results of the testing; and presenting the selected rich media one of the plurality of digital content elements.

As can be seen from the claim language, a message is received and, based on the contents of that message, various testing, selecting, and presenting operations are performed.

Tso does not teach, suggest, or imply testing, selecting and presenting operations (as described in claim 6) based on the content of a received message. The portion of Tso relied upon to teach “receiving a message” discusses the server **34** receiving an HTTP request from the client **12** for a desired Hypertext object. Tso, col. 5, lines 12-15. The portion of Tso relied upon to teach “based on the contents of the received message” discusses determining whether the network client **12** is non-enabled. Hence, the Applicants assume it is the Examiner’s position that Tso teaches

the server 34 receiving an HTTP request from the client 12 and determining whether the client 12 is non-enabled based on the contents of the received HTTP request. Even assuming this is correct, which the Applicants dispute, there are still no testing, selecting, and presenting operations (as described in claim 6) performed based on the contents of the HTTP request.

For example, the portion of Tso relied upon to teach "testing two or more digital content capabilities of the computer system" discusses various predetermined selection criterion and a default determination of whether or not to scale based on link speed of the client/server communication. Tso does not teach how either the link speed or the predetermined selection criterion are tested. Nevertheless, it is clear that neither of these are tested based on the contents of the HTTP request discussed above.

For at least this reason, claim 6 is patentably distinct from Tso. Furthermore, claims 7-10 depend from, and include the same limitations as, claim 6 and are patentably distinct from Tso for at least the reasons given above. Therefore, the Applicants respectfully request that the Examiner withdraw this rejection of these claims.

Conclusion

For the above reasons, the Applicants believe that claims 1-10 and 34 are patentable and respectfully request that the Examiner allow these claims as presented. If the Examiner has any questions, he is invited to contact the undersigned at (503) 796-2972.

The Commissioner is hereby authorized to charge shortages or credit overpayments to Deposit Account No. 500393.

Respectfully submitted,
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